

Attorneys for Plaintiff,
DINA GARCIA, On Behalf
of Herself and all Others Similarly Situated

Attorneys for Defendant,
STELLAR RECOVERY, INC.

DINA GARCIA, on Behalf of Herself
and all Others Similarly Situated,

VS.

Defendant.

**STIPULATION AND PROPOSED ORDER
AMENDING THE CASE MANAGEMENT
ORDER [Docket No. 21] AND ORDER
SETTING PRETRIAL DEADLINES
[Docket No. 24]**

Trial Date: 09/10/2018

1 **IT IS HEREBY STIPULATED TO** by and between Plaintiff, DINA GARCIA, on behalf of
2 herself and all others similarly situated (hereinafter “Plaintiff”) and Defendant, STELLAR
3 RECOVERY, INC. (“Defendant”) (Plaintiff and Defendant are collectively referred to as “Parties”),
4 through their respective counsel of record, as follows:

5 WHEREAS, on January 29, 2016, Plaintiff filed the instant Class Action Complaint for Damages
6 in the United States District Court for the Northern District of California;

7 WHEREAS, the Parties appeared before Judge Beth Labson Freeman for a Case Management
8 Conference on May 26, 2016;

9 WHEREAS, the Court issued a Case Management Order on May 26, 2016 setting the Class
10 Certification Hearing for May 4, 2017 at 9:00 am (*See* Docket No. 21);

11 WHEREAS, pursuant to the stipulation of the Parties, the Court issued an Order Setting Pretrial
12 Deadlines which set the following briefing schedule with respect to the motion for Class Certification:

Motion for Class Certification	1/27/17
Opposition to Motion for Class Certification	3/3/17
Reply in Support of Class Certification	4/7/17

13 [See Docket No. 24.]

14 WHEREAS, the Parties have not had adequate time to complete discovery and obtain evidence
15 and information material to the issues that must be addressed during the class certification process;

16 WHEREAS, Plaintiff has served discovery on Defendant including written interrogatories,
17 request for admissions and request for production of documents;

18 WHEREAS, there is some dispute as to Defendant’s responses to Plaintiff’s initial set of written
19 discovery which the Parties were attempting to resolve but have postponed as they are currently engaged
20 in settlement discussions;

1 WHEREAS, Plaintiff intends to take the deposition of Defendant's Person Most Knowledgeable;

2 WHEREAS, with respect to Defendant's Opposition to Plaintiff's Motion for Class Certification,
3 Defendant intends to take the deposition of Plaintiff and serve interrogatories, requests for admissions
4 and requests for production of documents as to the basis of Plaintiff's claims that she can establish the
5 typicality, commonality, and predominance required by Rule 23 of the *Federal Rules of Civil*
6 *Procedure*;

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8 WHEREAS, because the Telephone Consumer Protection Act has a four-year statute of
9 limitations, a substantial portion of the class-related discovery Plaintiff will be seeking from Defendant
10 relates to four years of electronic and other data. Plaintiff asserts that this discovery is necessary to file a
11 proper Motion for Class Certification;

12
13 WHEREAS, because Plaintiff's class-related discovery will require that Defendant extract
14 multiple years' worth of electronic data, a portion of which is warehoused and archived, this will prove
15 to be complicated and time-consuming, such that Plaintiff cannot file a sufficiently supported Motion for
16 Class Certification by January 27, 2017;

17
18 WHEREAS, it will require a substantial investment of time and resources for Defendant to
19 respond to Plaintiff's discovery in this matter, as Defendant must attempt to locate, retrieve, review and
20 compile voluminous documents and information from the last year, which are not easily accessible in a
21 single location or centralized database;

22 WHEREAS, in *Misra v. Decision One Mortg. Co.*, 673 F.Supp.2d 987, 993 (C.D. Cal. 2008), the
23 Court in that case extended the class certification deadline beyond 90 days where "discovery [was] slow
24 to commence," and "through no fault of Plaintiffs, the 90-day cut-off contemplated by the Local Rules
25 occurred prior to the Rule 16 scheduling conference";

1 WHEREAS, counsel for the parties have conferred and agreed to extend Plaintiff's deadline for
2 filing a Motion for Class Certification and related dates as follows:

- 3 1. Plaintiff's deadline to file a motion for class certification is extended January 27, 2017 to
4 March 31, 2017;
- 5 2. Defendant has twenty-eight (28) days from the date of Plaintiff's Motion for Class
6 Certification is filed, to file an Opposition; and
- 7 3. Plaintiff has fourteen days (28) from the date on which Defendant's Opposition to
8 Motion for Class Certification is filed, to file a Reply to Defendant's Opposition.
9

10 WHEREAS, the Parties' counsel believe an extension of the Motion for Class Certification
11 deadlines in this matter would promote potential resolution, as the parties would have additional time to
12 negotiate settlement and determine whether this matter, too, can reasonably and feasibly be resolved
13 without the need for further judicial proceedings related to complex class-certification issues and
14 exorbitant legal fees for both sides;
15

16 WHEREAS, this request is not made for any improper purpose or delay, but rather to facilitate
17 the parties' opportunity to conduct limited and reasonable discovery and to have the opportunity to seek
18 to resolve the case informally before the class certification briefing is due. (*See e.g. Champion v. Old*
19 *Republic Home Prot. Co.*, Case No. 09-CV-748-JMA(NLS), (S.D. Cal. Mar. 24, 2010) (Dkt. 26)
20 (granting stipulation to continue class certification deadline based on time needed to assess discovery);
21 *Lehr v. City of Sacramento*, 2:07-CV-01565-MCE, 2013 WL 1326546 at *1 (E.D. Cal. Apr. 2, 2013)
22 (noting that plaintiffs moved for class certification but stipulated to continue the hearing on the motion
23 to permit the parties to attempt to mediate a resolution of the litigation. As a result of that mediation,
24 plaintiffs and co-defendant reached a settlement agreement.)
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1 WHEREAS, the Parties have not made any prior request to extend the Motion for Class
2 Certification deadlines, and

3 WHEREAS, the Parties agree that the requested extension of time will not cause any prejudice to
4 them.

5 NOW THEREFORE, the Parties respectfully request that this Court issue an order that (1)
6 Plaintiff's deadline to file a Motion for Class Certification is extended from January 27, 2017 to May 31,
7 2017, (2) Defendant has 28 days from the date Plaintiff's Motion is filed to file an Opposition, and (3)
8 Plaintiff has 28 days from the date Defendant's Opposition is filed to file a Reply. A [Proposed] Order
9 regarding this request is submitted concurrently herewith for the Court's consideration.
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11 **IT IS SO STIPULATED.**
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13

14 Dated: November 22, 2016

BURSOR & FISHER. P.A.

15 By: /s/ Annick M. Persinger
16 L. Timothy Fisher
17 Annick M. Persinger
18 Yeremey O. Krivoshey
19 Attorneys for Plaintiff,
20 DINA GARCIA, on Behalf of Herself
21 and all Others Similarly Situated

22 Dated: November 22, 2016

CARLSON & MESSER LLP

23 By: /s/ Jeanne L. Zimmer
24 Jeanne L. Zimmer
25 J. Grace Felipe
26 Attorneys for Defendant,
27 STELLAR RECOVERY, INC.
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1
2 **[PROPOSED] ORDER**

3 Pursuant to the stipulation of the Parties and good cause appearing therefor, the Court orders the
4 following dates are continued:
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6

	Old Date	New Date
Motion for Class Certification	1/27/17	3/31/17
Opposition to Motion for Class Certification	3/3/17	4/28/17
Reply in Support of Class Certification	4/7/17	5/26/17

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11 IT IS SO ORDERED.
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13 Dated: _____

HONORABLE BETH LABSON FREEMAN
United States District Judge

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Dated: November 22, 2016

/s/ J. Grace Felipe
J. Grace Felipe